

ABSTRACT

COMPARATIVE ADVERTISING - THE DEVELOPMENT OF REGULATION IN THE CZECH LEGAL ORDER

My thesis is aimed particularly to analyse the existing legal regulations on the comparative advertising in the Czech Republic with a view to its comprehensive treatment in the Community law and to summarize the history of the Czech laws not only of the comparative advertising evolution, but also an unfair competition or an unfair advertising in general, as the legislation governing the comparative advertising did not exist until 2001 and particularly the comparative advertising was usually qualified as an unfair competition. The work is divided into seven chapters. First two chapters briefly depict general characteristics of both the economic competition and an unfair competition terms and concepts. The third chapter is devoted to advertising in general.

Chapters Four and Five form the core of the thesis. They are dedicated to the phenomenon of the comparative advertising and legislation prevailing in the Czech Republic.

In Chapter Four, varying attitudes of different rules of law to comparative advertising are discussed in Section 4.1, and Section 4.2 summarizes the different types of comparative advertising. Section 4.3 is dedicated to the evolution of the legislation on unfair competition or an unfair advertising. There was a lack of proper legislation governing the comparative advertising till 2001, the concept of comparative advertising, however the theory and in particular the case-law, already treated this term at that time.

Chapter Five is dedicated to the comparative advertising positive regulation especially provided in the Commercial Code, and marginally also with rules of the Public Law. Since the adoption of so-called “Harmonization Amendment” (Act No. 370/2000 Coll.) of the Commercial Code (Act No. 513/1991 Coll.) enforced by the European Directive and cumulatively considering the comparative advertising as permissible and desirable form of the economic competition when meeting all the mandatory specified conditions, the Czech legislation regulating the comparative advertising is similar to the European law and therefore complies with the requirement of complete European legislation aimed on unification of the comparative advertising admissibility conditions as well as overcoming any different attitudes towards the comparative advertising in various Member States.

Chapter Six deals with the Community law applicable to the comparative advertising and the European Court of Justice case law. Finally, Chapter Seven briefly describes protection measures against an impermissible comparative advertising.

Keywords: Comparative advertising;
Conditions of admissibility of comparative advertising;
Unfair competition.